

tice whatever of the proceedings, would it not be most unjust to turn him away by saying, that though not here in person, you were by representative, and you must look to him. And then, when he applied to him and complained, that he had suffered the fund to be distributed, without regard to his rights, the answer would be, the fund has been distributed by a court of competent jurisdiction, for which the insolvent trustee could not be held responsible. 1

I cannot bring myself to think, that the case of *Alexander vs. Ghiselin* can be carried to an extent which must be productive of such injurious consequences.

The bill in that case was filed for the purpose of having the estate administered in insolvency. But in *Hodges'* case, it was the bill of a mortgagee, asking for the enforcement of his specific lien, and the trustee of the insolvent was brought in, because the equity of redemption had devolved upon him by operation of the insolvent laws.

The construction contended for by the complainants' counsel would not only make the Court of Chancery the tribunal for the administration of the insolvent system, but as several bills for the enforcement of several mortgages, (if the insolvent had executed more than one,) might be filed in the different equity courts of the state, that singleness of administration, which the system aimed at, and which the Court of Appeals considered so important in *Alexander's* case, would be entirely defeated, and instead of simplicity and uniformity, the utmost confusion would be the unavoidable result.

But it is said, the judgment of the defendants has been improperly revived, because *Duvall*, the insolvent trustee, was not a party to the *scire facias*, and that, therefore, this court ought not to dissolve the injunction.

I do not deem it necessary to express an opinion upon this point, thinking it more properly belongs to the courts of law. If the judgment has been improperly revived, and is a nullity, as is contended, then no title will pass to the party who may purchase under an execution issued upon it, and the complainants will not be injured. But surely it would be improper in